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**U.S. Department of Homeland Security**
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

**U.S. Citizenship and Immigration Services**

B5

[redacted]

DATE: FEB 22 2012 OFFICE: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a researcher in biochemistry. The petitioner is currently a visiting research associate at Michigan State University (MSU), East Lansing. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief from counsel and additional exhibits.

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –
>
> > (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer –
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

> The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

*Matter of New York State Dept. of Transportation*, 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, the petitioner must show that the alien seeks employment in an area of substantial intrinsic merit. Next, the petitioner must show that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

While the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The AAO also notes that the regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140 petition on July 30, 2010. In an introductory statement, counsel stated:

> [The petitioner's] work targets the explanation of molecular structures that are essential to developing pharmaceutical treatments for many antibiotic resistant infectious diseases. . . . Her published articles have generated international recognition and elite ratings from the selective Faculty of 1000 as well as a considerable number of independent citations. . . . Collectively, her published work has been **independently cited twenty-three (23) times** in outstanding journals. . . .

> Her articles have drawn considerable attention from many international experts in the United States and abroad. . . .
>
> [The petitioner's] 2008 publication in the *RNA* journal was rated as a "Must-Read" by the Faculty of 1000, an elite panel of scientists that reviews thousands of medical and scientific articles published every year and selectively assesses their significance. . . .
>
> [The petitioner's] consistent breakthroughs warrant the conclusion that she is destined to continue making substantial contributions to similar research endeavors in the United States in the future.

(Emphasis in original). The petitioner submitted copies of three published articles, and (through counsel) claimed that three additional articles were in preparation. The petitioner also documented 17 conference presentations.

To illustrate the impact of her published work, the petitioner documented 23 independent citations of her work, with three articles showing four, six and 14 citations, respectively. (The petitioner also documented a self-citation by a coauthor.) The petitioner submitted no evidence to show how these citation rates compare to those of other articles in the petitioner's specialty. Copies of some of the citing articles do not readily distinguish the petitioner's work from other cited works. The citing authors often cited the petitioner's work collectively with other articles. For example, a 2006 article in the [redacted] by [redacted] contains this passage: "Ψs contributions are sequence context-dependent, particularly in regard to stems *versus* loops.[3,24,25,61-65]" In this instance, the petitioner's article (number 64 in the bibliography) is one of eight articles cited in support of the quoted sentence. Several of the other cited articles date from well before the petitioner's article.

A printout from the "Faculty of 1000" database rated one of the petitioner's articles a "Must Read" with an "F1000 Factor" of 6.0. Of the nine other articles found under the search terms "conformationally AND restricted," seven showed F1000 Factors of 3.0, one showed a factor of 6.0, and one, 6.7. The petitioner did not submit background documentation explaining the F1000 Factor. The printout indicates that [redacted] evaluated and selected the petitioner's article, but the record does not contain the evaluation or any statement from the evaluator.

Several witness letters accompanied the petition. [redacted], who supervised the petitioner's doctoral studies at Wayne State University (WSU), Detroit, Michigan, stated:

> [The petitioner] came to my research laboratory in 1999 with substantial expertise in bio-organic chemistry. . . . As a graduate research assistant . . . , her research focused on comparing the effects of pseudouridine on the structure and stability of ribosomal RNA in bacteria and human. She worked independently and effectively in this original research project. The ultimate goal of her research was to understand the significance of modified nucleotides in ribosomal RNA, their role in protein synthesis, and to compare ribosomal RNA structures between bacteria and humans. This in turn will advance the development of next-generation antibiotics.

> . . . Her structural and biochemical comparison studies showed that helix 69 is a new ideal drug-target site for antibiotics. . . . Her work is going to generate new investigations that will lead to the development of new drugs, potentially benefiting millions of patients in [the] United States.

Discussing the same project described above, [redacted] associate professor at WSU, stated that the petitioner "has made outstanding contributions to this project. In particular, she has innovatively identified possible new antibiotic sites by performing biophysical and biochemical comparisons between bacteria and humans." [redacted] deemed the petitioner "a pioneering researcher studying the eukaryotic ribosome sequence structure and stability in detail, revealing similarities and differences in the helix 69 between bacteria and humans."

Both [redacted] and [redacted] praised the petitioner's current work at MSU. Regarding that work, [redacted] associate professor at MSU, stated:

> [The petitioner] came to my laboratory in 2006 with substantial expertise in the bio-organic chemistry of nucleotides and in the general biophysical characterization of RNA oligomers. . . .
>
> She is playing a key role in a . . . project on nuclear magnetic resonance (NMR) spectroscopic studies of the role of conformational dynamics in RNA catalysis, including both methods development and applications to the lead-dependent ribozyme, the hairpin ribozyme, and the U6 spliceosomal RNA. A ribozyme is a novel therapeutic approach for disrupting a broad range of life-threatening diseases, including many forms of cancer. In contrast to traditional pharmaceutical products, ribozymes disrupt genetic information rather than inhibiting protein function. Therefore, a fundamental understanding of ribozyme mechanisms is necessary to design improved ribozyme derivatives.

[redacted] stated that the petitioner "has made great progress in leading our ribozyme research efforts," which [redacted] then described in technical detail.

Counsel referred to four additional witnesses as "independent evaluators." These four witnesses appear not to have worked directly with the petitioner, but three of them have collaborated with various witnesses named above. [redacted] of Northwestern University, Evanston, Illinois, collaborated with [redacted] on a 1992 paper listed on [redacted] *curriculum vitae*. [redacted] described the petitioner's Ph.D. research as "an important contribution to the ribosome field because she demonstrated for the first time that there are structural differences between bacterial and human helix 69, a possible binding site for antibiotics." With respect to the petitioner's current work at MSU, [redacted] stated: "this new general strategy to study ribose conformational effects will be very beneficial for RNA biophysicists and biochemists to acquire a deeper understanding of RNA structure and function."

[redacted], manager of advanced development and a principal scientist at [redacted], stated:

> My research collaborator, [redacted], introduced me to [the petitioner] on a lab visit when [the petitioner] was investigating the structural and stability effects of pseudouridines on helix 69 located in the catalytic center of ribosomes. This is a novel topic of great significance to the development of therapies for many diseases, and a research topic that has not been very well-explored in the past. . . . I have continued to follow [the petitioner's] research. . . .
>
> [The petitioner's] RNA structure and dynamics research is contributing to synthesis of next-generation biosensors that will be extremely valuable to research and development.

University of Oregon [redacted] coauthor of several articles on [redacted] *curriculum vitae*, stated that the petitioner "has made an original contribution to the nationally-significant field of RNA research by developing a biophysical method to measure metal ion effects on RNA-RNA interactions of hairpin ribozymes using circular dichlorism spectroscopy." [redacted] asserted: "my research group will benefit from the techniques she is outlining in the future."

The most independent witness appears to be [redacted] of Hunter College of the City University of New York. [redacted] described the petitioner's early research at WSU in technical detail and concluded: "[The petitioner's] work is clearly of significant therapeutic value in the field and I expect it to be a continuing resource for independent scientists in this field." Regarding the petitioner's later work at MSU, [redacted] stated:

> While it is typical to use biochemical methods to study metal ion effects on RNA structure, these methods are not very quantitative. Therefore, [the petitioner] innovatively used spectroscopic methods to study these effects. She developed quantitative assays to measure metal ion effects by using CD spectroscopy. This represents a significant development since these methods are more efficient and require less time. . . . I am looking forward to reading [the petitioner's] research work.

On October 27, 2010, the director issued a request for evidence. The director acknowledged the intrinsic merit and national scope of the petitioner's occupation, but stated that the petitioner had not "established that the beneficiary's work has significantly impacted her filed [*sic*] of study." In response, the petitioner submitted an updated citation list, showing that the total number of independent citations of her articles had climbed from 23 to 29. The new figures drew from more sources (such as patent applications) than the previous submission.

The petitioner also submitted letters from, in counsel's words, "four international authorities in the petitioner's field, three of whom have cited the petitioner's work in their published articles and one of whom serves on the editorial board of a journal that has published the petitioner's research."

[redacted] of Pennsylvania State University, who serves on the editorial board of *RNA*, stated:

> I have never worked or collaborated with [the petitioner]. I only know of her work from her published articles and presentations at international meetings. Since my laboratory is studying catalytic RNA, I can attest to her significant contributions to RNA structure and functions in her postdoctoral work. . . . Her publication and presentations show that locked nucleic acids (LNAs) are useful tools to study the ribose conformational effect on RNA structure and stability. . . . Prior to the publication of [the petitioner's] 2008 *RNA* paper, we could not understand the relationship between RNA functions and ribose structural dynamics using simple methods. . . . Her presentations and article in *RNA* expanded the application of LNAs as probes of functional relationships in folded RNA molecules. [The petitioner's] significant contribution led to her paper being labeled as a "Must Read" by the widely consulted "Faculty of 1000." The Faculty of 1000 identifies and evaluates the most important articles in biology and medical research publications. On average, 1500 new evaluations are published each month and the Faculty of 1000's selections correspond to approximately the top 2% of all published articles in the biological and medical sciences.
>
> In my professional opinion, [the petitioner's] contributions to the RNA Biology field are of tremendous significance to the development of new RNA therapeutics and antibiotics. Her newly-developed RNA structural assay with LNA represents a very substantial contribution to the biology and medical research fields and an exceptional finding that will significantly benefit the work of independent scientists such as myself.

[redacted], assistant professor at the University of Texas at Dallas, stated:

> Through my research, I have become independently familiar with [the petitioner's] scientific contributions. I examined one of her published articles in the prestigious *RNA* journal in 2008, and cited her study in my own research article. . . .
>
> The most significant and outstanding element of her 2008 *RNA* paper is her development of a simple method to study RNA structural dynamics and the functional effects of ribose conformation. This is extremely valuable because conformational changes in RNA are important to functions such as RNA catalysis and protein-RNA recognition. . . . [The petitioner's] 2008 *RNA* article substantially lowered the barriers to the study of RNA structural dynamics. . . . Her research has significantly impacted my independent studies based on the RNA molecule and advanced my efforts to develop new therapies and new knowledge based upon the functions of these molecules.

[redacted] of Johannes Gutenburg University, Mainz, Germany, stated:

I have never worked or collaborated with [the petitioner], and know her only through her first authored published work . . . , which I cited in two review articles. . . .

[The petitioner's] work stands out in particular for its prominence and originality. I cited [the petitioner's] article for her detailed and outstanding coverage of the structural and stability effects of pseudouridine in the rRNA region, helix 69. . . . [The petitioner's] paper is an outstanding research study focusing on the eukaryotic ribosome and the first paper to discuss the structural and stability effects of pseudouridines in the human helix 69 sequence. This has made her article a novel contribution to molecular biology in many ways.

. . . Recently, [redacted] at the State of University of New York at Albany discussed the different binding affinities of currently available antibiotics to bacterial and human helix 69 based on [the petitioner's] structural work. . . . Her findings on the RNA structure topic have generated a significant amount of independent research, such as [redacted] study, and it is my professional assessment that [the petitioner's] work occupies a central role in the field of RNA research, especially as it relates to the development of new therapies and antibiotics for many diseases.

[redacted] offered his own letter in support of the petition, stating:

One of the key citations in my most recently published paper . . . is her 2005 *RNA* paper. . . . I cited her research to show that helix 69 sequences in humans bind considerably fewer antibiotics compared to *E. coli* sequences. This means that these antibiotics are less toxic to human beings.

. . . [The petitioner] used various complex biophysical techniques to show that helix 69 is a new ideal drug-target site for antibiotics by comparing bacterial and human sequences of the helix 69 hairpin. Since drug resistance is a serious problem, it is necessary to identify new antibiotic targets. Moreover, antibiotic design requires an intricate understanding of the structure and function of bio-molecules. However, the eukaryotic ribosome structure is still unresolved.

[The petitioner's] 2005 publication is so essential because this is one of the most important research articles **ever produced** about the human ribosome structure and contains an outstanding comparison study between bacteria and humans that pre-dated my 2010 *Nucleic Acids Research* paper. Helix 69 research is [of] great medical significance to antibiotic drug design and it is for these reasons that I cited [the petitioner's] research in my publication. **Her work significantly benefited my findings, and I consider her findings outstanding and of great significance to our efforts to develop new antibiotics.**

(Emphasis in original.) The director denied the petition on December 28, 2010, stating that the "letters are general in nature, and do not establish the petitioner's abilities are greater than . . . [those of her] peers. In addition these letters have not established the petitioner will impact the field of biochemistry as a whole to [a] substantially greater degree than U.S. Citizens counterparts [*sic*]." The director found that "many of these letters" were from colleagues rather than independent witnesses. The director also asserted that the petitioner's publication and citation record "are not unusual or different from other researchers or professors who have had their worked [*sic*] published, or presented their findings."

On appeal, counsel asserts that the director "undercounted citation numbers and entirely omitted to consider additional evidence of Appellant's impact on her field, including but not limited to the statements of credible independent references and the recommendation of her research by elite review sources."

With respect to the claimed undercounting of citation numbers, counsel states that the petitioner originally documented 27 citations, increased to 30 after the request for evidence. The petitioner's initial submission included a citation database printout showing four citations of one article, six of a second, and 14 of a third, for a total of 24 citations (including a self-citation). Counsel, on page 2 of the introductory letter, originally stated that the petitioner's "published work has been **independently cited twenty-three (23) times**" (emphasis in original). Now, on appeal, counsel states that the director erred by not counting 27 citations in the initial submission. Counsel does not account for the extra four citations or explain how counsel, too, did not count them at first.

Counsel states:

> [The petitioner's] publication on "Conformationally-restricted Nucleotides" in the *RNA* journal was rated as a "*Must Read*" article by the Faculty of 1000, an elite scientific review service provided by the leading minds in the field. Only the top 2% of papers in the field from among thousands that are reviewed annually receive such "Must Read" designation. [App. Exh. 3]

(Counsel's emphasis; footnote omitted.) Exhibit 3, a printout from http://f1000.com/about/whatis, does not say what counsel claims it says. The relevant part of that printout reads: "On average, 1500 new evaluations are published each month; this corresponds to approximately the top 2% of all published articles in the biological and medical sciences." The printout does not say that only 2% of reviewed articles receive the "Must Read" designation, or that "Must Read" is the top designation that an article can receive. The record does not indicate the extent to which the field as a whole relies on Faculty of 1000 evaluations.

It is true that the Faculty of 1000 evaluates "approximately the top 2% of all published articles in the biological and medical sciences." That small percentage, however, encompasses "1500 new evaluations each month," or 18,000 articles per year. So high a number does not realistically imply that every author of every evaluated article presumptively qualifies for the national interest waiver. Conservatively estimating two authors per article, the aggregate number of authors would approach

the total allocation of employment-based immigrant visas under sections 201(d)(1)(A) and 203(b)(2) of the Act.

Because the mere act of selection by the Faculty of 1000 does not show eligibility for the waiver, it is relevant to consider how the Faculty of 1000 rates a given article. The evidence submitted does not reveal the full range of rankings; it shows only that there are at least two, "Recommended" and "Must Read." As noted previously, the petitioner's prior submission showed ten listings from the Faculty of 1000. Three of those ten had "Must Read" rankings, with the remainder ranked "Recommended." All seven "Recommended" articles had F1000 factors of 3.0, each selected by one reviewer.

The listings for the three "Must Read" articles included the following information:

> "A fluorophore ligase for site-specific protein labeling inside living cells." [redacted]
> F1000 Factor: 6.7
> Selected by: [redacted] and [redacted] / [redacted] / [redacted] and [redacted] / [redacted] and [redacted] / [redacted]
>
> "The Kinesin-1 tail conformationally restricts the nucleotide pocked." [redacted]
> F1000 Factor: 6.0
> Selected by: [redacted]
>
> "Conformationally restricted nucleotides as a probe of structure-function relationships in RNA." [redacted] (The petitioner is second author.) [redacted]
> F1000 Factor: 6.0
> Selected by: [redacted]

The article by [redacted] received a higher F1000 factor than the petitioner's article. While only one reviewer selected the petitioner's article, the [redacted] article caught the attention of eight reviewers in five research groups, who ranked the article with a higher F1000 factor than the petitioner's paper.

The sparse documentation in the record indicates that selection by the Faculty of 1000 is a distinction of some merit, but it does not support counsel's claim that the petitioner's article occupies a place of honor in relation to the thousands of other selected articles. It shows, rather, that the petitioner's article made a favorable impression on one member of the Faculty of 1000.

Counsel states:

> Writing in the J[redacted], a leading global biosensor expert, rated [redacted] publication exceedingly favorably and gave

> her data an "A" grade. [App. Exh. 5] [redacted] compared 1413 articles published in 2008 describing biosensor-based experiments, and gave only 22 of these articles containing the most valuable experiments and results (1.55% of published articles) "A" grades. The figures in [redacted] 2008 *RNA* publication were specifically cited as an excellent example of strong data and analysis and it is apparent that [redacted] evaluated her research as the best in the field.

In a new letter, [redacted] refers to the same article, stating: "the outstanding quality of her data published in a study in the [redacted] in 2008 was commented on by [redacted] one of the leading global scientists focusing on biosensors, in an article in the [redacted]"

The petitioner submits a copy of the above-mentioned article by [redacted] (not [redacted]) and [redacted], "Grading the commercial optical biosensor literature – Class of 2008: 'The Mighty Binders.'" The petitioner had previously submitted another copy of this article among the examples of articles that cited the petitioner's work. The article is not about the petitioner's field of research. Rather, the introduction to the article reads:

> Optical biosensor technology continues to be the method of choice for label-free, real-time interaction analysis. But when it comes to improving the quality of the biosensor literature, education should be fundamental. Of the 1413 articles published in 2008, less than 30% would pass the requirements for high-school chemistry. To teach by example, we spotlight 10 papers that illustrate how to implement the technology properly. Then we grade every paper published in 2008 on a scale from A to F and outline what features make a biosensor article fabulous, middling or abysmal. To help improve the quality of published data, we focus on a few experimental, analysis and presentation mistakes that are alarmingly common. With the literature as a guide, we want to ensure that no user is left behind.

The authors gave the petitioner's article a grade of "A," but this is a comment on how well the petitioner's research team used biosensor technology, not the petitioner's impact on her own field. The petitioner's paper is not among the ten articles in the "Honor Roll" that begins on page 2 of the article. The article's 1,413-entry bibliography, which takes up 38 of its 64 pages, lists the petitioner's article at number 846. Only one citation refers specifically to number 846 (in the caption of a figure on page 16, showing properly-prepared kinetic analyses). The remaining citations encompassing the petitioner's work refer collectively to large numbers of articles. One such citation, on page 2, reads "43-1338," indicating that the citation refers simultaneously to 1,296 different sources. Another citation on page 3 refers to every article (of which there are more than a thousand) in which the researchers used instruments manufactured by GE Healthcare/Biacore.

The article does not support counsel's claim that [redacted] and [redacted] considered the petitioner's work to be among "the most valuable experiments and results," or her "research as the best in the field." Rather, [redacted] and [redacted] concluded that the petitioner's article was among a handful that showed optimal data collection through the proper use of optical biosensors. This is a much narrower

conclusion that the one claimed by counsel and [redacted]. The record does not even show what role the petitioner, out of five coauthors, played in using the optical biosensors and/or interpreting the collected data.

Counsel's appellate brief alleges a pattern of factual errors by the director, but that brief, itself, contains numerous distortions and exaggerations as described above.

The AAO acknowledges the petitioner's submission of letters from credible witnesses. The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and the AAO has considered them above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l. Comm'r 1972)).

The petitioner has submitted letters from independent witnesses who assert that the petitioner's work has influenced their own subsequent research. The witnesses did not, however, identify specific advances in the field that have demonstrably arisen from the petitioner's published or presented work. Coupled with a citation rate that appears to be moderate at best, the letters are anecdotal rather than authoritative and lack persuasive documentary support.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.